

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nathaniel Flack	Team: Squad #3	CCRB Case #: 201700391	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 01/14/2017 4:30 AM	Location of Incident: 237 West 42nd Street	Precinct: 14	18 Mo. SOL 7/14/2018	EO SOL 7/14/2018	
Date/Time CV Reported Sat, 01/14/2017 12:24 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 01/14/2017 12:24 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Rogers	13265	937421	MTS PCT
2. POF Sara Paulino	08899	949223	MTS PCT
3. SGT William Johnson	02467	920440	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brendan McLoughlin	01184	954120	MTS PCT
2. POM Thomas Koerner	08618	928588	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Rogers	Force: Police Officer Peter Rogers used physical force against § 87(2)(b)	
B.SGT William Johnson	Abuse: Sergeant William Johnson detained § 87(2)(b)	
C.POM Peter Rogers	Abuse: Police Officer Peter Rogers searched § 87(2)(b)	
D.POF Sara Paulino	Abuse: Police Officer Sara Paulino frisked § 87(2)(b)	
E.POF Sara Paulino	Abuse: Police Officer Sara Paulino searched § 87(2)(b)	
F.POM Peter Rogers	Discourtesy: Police Officer Peter Rogers spoke discourteously to § 87(2)(b)	
G.POM Peter Rogers	Off. Language: Police Officer Peter Rogers made remarks to § 87(2)(b) based upon race.	

### Case Summary

§ 87(2)(b) filed this complaint via the CCRB Call Processing System on January 14, 2017.

At approximately 4:30 am on January 14, 2017, § 87(2)(b) was attending a concert at BB King's, located at 237 W. 42nd Street in Manhattan. As the event was ending, § 87(2)(b) was physically removed from the premises by security after a dispute near the coat check. § 87(2)(b) asked PO Peter Rogers and PO Brendan McLoughlin of the Midtown South Precinct, who were posted in front of the event, to take police action against a security guard. They declined to do so and instructed § 87(2)(b)'s friends § 87(2)(b) and Emily § 87(2)(b) to retrieve her coat from inside. After several minutes, § 87(2)(b) attempted to walk back into the venue, which PO Rogers prevented by grabbing § 87(2)(b)'s arm and placing her in handcuffs after a brief struggle (**Allegation A**). Sgt. William Johnson ordered that § 87(2)(b) be transported to the Midtown South Precinct stationhouse (**Allegation B**), while her bag was allegedly searched by PO Rogers (**Allegation C**) and she was frisked and searched by PO Sara Paulino (**Allegation D and E**). A verbal exchange occurred inside the NYPD van where § 87(2)(b) was transported, during which PO Rogers allegedly said, "Shut the fuck up," "I don't give a fuck about that" (**Allegation F**), and, "This is what hoodlums do" in reference to § 87(2)(b)'s behavior (**Allegation G**). § 87(2)(b) was released from the stationhouse with a summons for § 87(2)(b).

The investigation obtained video footage for this incident from the NYPD and BB King's, relevant portions of which are excerpted below as Snagits 1, 2, and 3 (Board Review 01, Board Review 02, and Board Review 03).



Snagit1.mp4



Snagit2.mp4



Snagit3.mp4

This case is being submitted more than 90 days after it was assigned due to a 30 day delay in receiving footage from BB King's.

### Meditation, Civil, and Criminal History

- § 87(2)(b) rejected mediation § 87(2)(b).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] Calls placed to the Manhattan Criminal Court Summons Clerk regarding the disposition of the summons she received during the incident have not been answered.
- A request for any Notice of Claim has been submitted to the NYC Office of the Comptroller, the results of which will be added to the case file upon receipt.

### Civilian and Subject Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- In 12 years with the NYPD, PO Rogers has previously been a subject of four CCRB complaints, containing eight total allegations. No allegations have been substantiated, and § 87(2)(g)
- In 19 years with the NYPD, Sgt. Johnson has been a subject of 4 previous complaints containing a total of 5 allegations. No allegations have been substantiated and the § 87(2)(g)

- § 87(2)(b) [REDACTED]  
[REDACTED]

### Potential Issues

- § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Findings and Recommendations

#### Allegations Not Pleaded

- § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- Snagit1 shows a male officer picking up § 87(2)(b) s bag from the ground as she is placed in handcuffs, and returning items to it which had fallen out of the bag. § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- While § 87(2)(b) said in her interview that her shirt was ripped by PO Rogers during the incident, § 87(2)(g) [REDACTED]  
[REDACTED]
- Although § 87(2)(b) said in her telephone statement and interview that PO Rogers had “choked” her up, when questioned further it was apparent that she was only alleging that he grabbed her shirt collar and not a chokehold, § 87(2)(g) [REDACTED]  
[REDACTED]

#### Subject Officer Identification

- § 87(2)(b) said in her CCRB interview (Board Review 04) that she was frisked on 42<sup>nd</sup> Street by a slim white male, approximately 52 years old, with stripes on his sleeve. PO Paulino acknowledged that she thoroughly frisked § 87(2)(b) on 42<sup>nd</sup> Street after walking her from where she had been handcuffed to the van, and then placed her inside the van. PO Rogers independently corroborated that PO Paulino frisked § 87(2)(b) and this was not contradicted by any civilian or officer testimony or by the video footage. § 87(2)(g) [REDACTED]  
[REDACTED]
- § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation A: Police Officer Peter Rogers used physical force against § 87(2)(b)**

In her January 19, 2017 interview at the CCRB (Board Review 04) § 87(2)(b) said that while waiting at the coat check before leaving the club, which was closing, she tried to grab her coat from the area where they were being stored. In response, a security guard escorted her outside by pushing her to the stairs, briefly putting his hands around her neck. Once on the sidewalk, he adopted a fighting stance, and said, "Come on." § 87(2)(b) saw PO Rogers and PO McLoughlin standing nearby, and said something to the effect of, "Are you going to do anything?" The security guard walked back into the building and PO Rogers and PO McLoughlin approached § 87(2)(b) who told them that she wanted to press charges against the security guard. She was speaking loudly because she was upset about what had happened. PO Rogers told her they were going to let both § 87(2)(b) and the security guard go, and would not make a police report for her. § 87(2)(b) took photos of the officers' shields, and began to walk back towards the entrance to the club to get her coat. In response, PO Rogers grabbed her purse from behind and threw it on the ground. § 87(2)(b) turned around and took several steps away from PO Rogers, who tried to take control of her by grabbing her shirt collar with both hands, scratching her chest in the process. § 87(2)(b) said she was not trying to resist PO Rogers at this time, but he had difficulty trying to grab hold of her because he was shorter than her. Once he had a hold of her collar, he pushed her forcefully into the wall of the BB King's, ripping her shirt. PO Rogers' arm or hand then made contact with her face, which she initially characterized as a strike or a punch, though she was not sure whether it was part of the process of trying grab hold of her or what part of her face he made contact with. PO Rogers turned her around to press her front against the wall and handcuffed her. § 87(2)(b) did not try to resist the handcuffing. § 87(2)(b)'s initial statement and her January 17, 2017 phone statement to the CCRB (Board Review 05 and 06) were generally consistent with her interview except that she added that when PO Rogers pushed her against the wall it caused her to hit her head against it.

In § 87(2)(b)'s January 24, 2017 telephone statement to the CCRB (Board Review 07), she said that four security guards dragged § 87(2)(b) out of BB King's by her arms and her legs while § 87(2)(b) was screaming and hysterically crying. § 87(2)(b) then spoke with a female security guard. § 87(2)(b) left for five minutes to get her and § 87(2)(b)'s coats, and when she came back outside, she saw § 87(2)(b) in the back of a marked NYPD van. She did not see how § 87(2)(b) was handcuffed.

In her January 27, 2017 telephone statement (Board Review 08), § 87(2)(b) said that she was across the street when she saw § 87(2)(b) and § 87(2)(b) exit BB King's. § 87(2)(b) was crying, being loud, and § 87(2)(b) thought that § 87(2)(b) "wanted to keep fighting." PO Rogers and PO McLoughlin approached § 87(2)(b) and told § 87(2)(b) and § 87(2)(b) to get § 87(2)(b)'s coat. § 87(2)(b) did so and when she returned, § 87(2)(b) was being placed in an NYPD van in handcuffs. She did not see how she was handcuffed.

In PO Rogers' CCRB interview (Board Review 09), he said that he was in his van at his post in front of BB King's when a security guard exited and told him that a female he was trying to kick out was refusing to leave. PO Rogers could see into the vestibule where § 87(2)(b) was on the ground, "kicking and screaming." As PO Rogers and PO McLoughlin got out of the van and walked towards § 87(2)(b) she stood up, ran towards the male security guard, got into a "boxing stance," and said something to the effect of, "I want to fight you." The security guard backed away from § 87(2)(b) and PO McLoughlin got in between them. PO Rogers and PO McLoughlin walked § 87(2)(b) one storefront to the west to try to calm her down. After PO Rogers and PO McLoughlin told § 87(2)(b) that they could not arrest the security guard, she

walked past PO Rogers and PO McLoughlin. PO Rogers said, “You can’t go back in there,” and § 87(2)(b) said, “I’m going back in.” He followed and grabbed her upper arm with his hand, telling her that if she went back in it would be trespassing, because she had already been kicked out. § 87(2)(b) “flailed” her arm away from PO Rogers. PO Rogers said, “You can’t go in there,” grabbing her other upper arm and walking her to a wall. § 87(2)(b) tried prevent this, but PO Rogers had control over her. PO Rogers placed § 87(2)(b) facing a wall “as gently as possible.” § 87(2)(b) never actually made contact with wall as far as PO Rogers was aware. PO Paulino held § 87(2)(b)s upper shoulders while PO Rogers put her in handcuffs. § 87(2)(b) resisted by twisting her arms, but he handcuffed her easily and did not strike or punch her or touch any area of her body except her arms. PO Rogers never grabbed § 87(2)(b)s shirt.

PO McLoughlin’s statement to the CCRB (Board Review 10) was generally consistent with PO Rogers’.

PO Paulino said in her interview (Board Review 11) that she heard a commotion at BB King’s and went into the club where a female security guard said that § 87(2)(b) had been removed after a fight at the coat check. PO Paulino exited and Sgt. Johnson directed her to walk towards § 87(2)(b) who was surrounded by PO Rogers, PO McLoughlin, and other officers. § 87(2)(b) was facing a wall, and PO Rogers was holding her arms or her back from behind and placing her in handcuffs. § 87(2)(b) was moving or wiggling her body forward away from PO Rogers and towards the wall and PO Rogers was pulling her back towards him. PO Paulino put a hand on § 87(2)(b)s chest gently and told her to calm down. PO Paulino did not see PO Rogers grab the neckline of § 87(2)(b)s shirt.

Sgt. Johnson said in his interview (Board Review 12) that after returning to BB King’s across the street, he saw PO Rogers and PO McLoughlin trying to convince § 87(2)(b) to walk away, but she would not listen to them and raised her voice. Later, PO Rogers brought § 87(2)(b) to the van in handcuffs. Sgt. Johnson did not recall seeing PO Rogers actually place § 87(2)(b) in handcuffs or what had preceded this. Sgt. Johnson did not see any injuries on § 87(2)(b).

PO Koerner (Board Review 13) was not paying full attention to the incident, but said that he saw PO Rogers and PO McLoughlin talking to § 87(2)(b) when she stepped towards the club from where she had been standing, and PO Rogers pulled her back. PO Koerner could not recall whether § 87(2)(b) resisted being put in handcuffs. Besides grabbing her when she tried to enter the club, PO Koerner did not see PO Rogers use any force against § 87(2)(b). He did not observe any injuries on § 87(2)(b)s person.

PO Rogers issued § 87(2)(b) Summons § 87(2)(b) (Board Review 15), for “§ 87(2)(b) § 87(2)(b)” The narrative portion of the summons states that § 87(2)(b) “§ 87(2)(b) § 87(2)(b).”

At 2 seconds in Snagit3 a male security guard exits the club, followed by § 87(2)(b) in a white shirt, who pursues him as he tries to evade her and another individual tries to stand between them. At 7 seconds, the male disappears into a crowd on the sidewalk and § 87(2)(b) follows him. At 8 seconds, PO McLoughlin walks towards what appears to be a group of people restraining § 87(2)(b). At 15 seconds, the group appears to break up, and PO McLoughlin walks away from the camera with § 87(2)(b) followed by PO Rogers.

Snagit2 shows the same sequence as Snagit3 but from a different perspective, and contains no additional pertinent details.

Snagit1 starts with § 87(2)(b) speaking to PO McLoughlin and PO Rogers. At 19 seconds, § 87(2)(b) walks away from the officers towards the entrance to the club, raising her left hand in a "goodbye" gesture. PO Rogers reaches to grab § 87(2)(b)'s left arm but she continues to walk away. PO Rogers follows her and when she turns to enter the club, he grabs either her left arm or the left side of her body, and pulls her away from the entrance. At 26 seconds, he rotates § 87(2)(b)'s body away from the entrance but she walks and jumps away from PO Rogers, who is now standing between her and BB King's. § 87(2)(b) continues to back away from PO Rogers as he reaches for her. At approximately 31 seconds, § 87(2)(b) makes a sudden motion with her right arm, possibly ripping her arm out of PO Rogers' grasp. PO Rogers extends both arms against § 87(2)(b)'s chest and pushes her into a recessed vestibule area. § 87(2)(b) moves her arms as if to avoid being taken hold of by PO Rogers. At 35 seconds, § 87(2)(b) appears to swat PO Rogers' hands and push PO Rogers and PO McLoughlin away from her with her body. PO Rogers and PO McLoughlin grab a hold of her arms. At 40 seconds, PO Rogers rotates § 87(2)(b) so her back is to him while walking forward. § 87(2)(b) becomes obscured in a recessed area while PO Rogers continues to move his body as if to contain her. Other officers come to assist and § 87(2)(b) and PO Rogers are obscured in the recessed area until 1:27, when she is briefly visible with her hands behind her, either already in handcuffs or being placed in them.

Force may be used when it is reasonable to place a person in custody. Any application or use of force must be reasonable in the circumstances. PG 221-01 (Board Review 14).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

**Allegation B: Sergeant William Johnson detained** § 87(2)(b)  
**Allegation C: Police Officer Peter Rogers searched** § 87(2)(b)  
**Allegation D: Police Officer Sara Paulino frisked** § 87(2)(b)  
**Allegation E: Police Officer Sara Paulino searched** § 87(2)(b)

In her interview at the CCRB, § 87(2)(b) said that after she was placed in handcuffs, PO Paulino walked her to the van while PO Rogers picked up her purse from the ground. PO Rogers opened the purse, took § 87(2)(b)'s wallet, and examined the wallet and the purse's interior. § 87(2)(b) said that she was frisked while she stood next to the van. § 87(2)(b)'s January 14, 2017 and January 17, 2017 telephone statements were generally consistent with her interview.

§ 87(2)(b) said she saw PO Rogers looking through § 87(2)(b) bag while he was seated in the van. He was taking "everything" out of the purse. He had cards in his hands, and seemed to be looking for § 87(2)(b)'s I.D.

Sgt. Johnson said that PO Rogers told him § 87(2)(b) was acting disorderly by yelling, and that she had been given numerous chances to walk away and was not listening to anything the officers were asking her to do. Sgt. Johnson told PO Rogers, "Bring her back to the precinct, run her for warrants. If she has no warrants, give her a dis con summons, and get her out of here." He felt it was necessary to remove § 87(2)(b) from the scene in order to diffuse the situation. Sgt. Johnson did not see any officer search § 87(2)(b)'s purse. She was not frisked before being put in the van.

PO Rogers said that § 87(2)(b) was under arrest for disorderly conduct when she was placed in handcuffs. He said his goal was to get her away from BB King's because she was screaming and had tried to re-enter BB King's when everyone had to leave the premises. After § 87(2)(b) was in handcuffs, he put a cell phone back in the purse which had fallen out, but he did not search it. PO Paulino patted down § 87(2)(b)'s clothing, and took an I.D. and possibly a phone from her pockets. PO Rogers added that two different names were found on documents § 87(2)(b) had with her, and he believed she should be taken to the stationhouse so that both names could be run for warrants.

PO Paulino said that she patted down § 87(2)(b)'s pants and her chest area, but did not feel anything under the clothes and did not have to reach into any pockets. PO Paulino did not see any officer searching her purse.

PO McLoughlin said that he did not see any officer search a purse of § 87(2)(b)'s and did not recall if she had one with her. He did not recall if § 87(2)(b) was patted down or her person searched during the incident.

An officer's authority to effect a custodial arrest for a violation is valid even where the officer has the option of issuing a summons instead. People v Rodriguez, 84 A.D.3d 500 (2011) (Board Review 16). A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he engages in fighting or in violent, tumultuous or threatening behavior. NY CLS Penal § 240.20 (Board Review 17). When an officer effects an arrest, he must verify the prisoner's identity by satisfactory documentary proof, preferably government issued identification. PG 208-02 (Board Review 18). Officers may search the person or area within the immediate control of any individual who is lawfully placed under arrest, including a bag. People v. Magnum, 125 A.D.3d 401 (Board Review 19).

§ 87(2)(g)

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

**Allegation F: Police Officer Peter Rogers spoke discourteously to § 87(2)(b)**

**Allegation G: Police Officer Peter Rogers made remarks to § 87(2)(b) based upon race.**

§ 87(2)(b) said that when she was in the van with PO Rogers, he allegedly told her, “Shut the fuck up,” when she said she was the victim of police brutality. § 87(2)(b) called PO Rogers a “fat bastard,” and PO Rogers allegedly said, “This is what the hoodlums do.” § 87(2)(b) believed PO Rogers said this because § 87(2)(b) and the other concert attendees were black. § 87(2)(b) told PO Rogers that her father works in a courthouse, to which PO Rogers replied, “I don’t give a fuck about that. Mayor Bloomberg isn’t in office.” § 87(2)(b) did not make these allegations in either of her telephone statements.

PO Rogers denied saying, “Shut the fuck up” or, “I don’t give a fuck about that” to § 87(2)(b) or calling her or her friends “hoodlums.” PO Rogers denied using any profanity or offensive language when speaking to her.

All other officers either denied that PO Rogers made the alleged remarks or said that they did not recall him making them.

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

Squad: 3

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date